IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.18310 of 2006

DATE OF DECISION: 20.11.2006

Kulwinder Kaur ....Petitioner

Versus

State of Punjab and another ....Respondents

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. G.S.Jaswal, Advocate
for the petitioner.

J.S. Khehar, J.

The petitioner was born on 25.9.1960. She qualified the Matriculation examination in the year 1976, the B.A. examination in the year 1981, and the B.Ed. examination in the year 1982. At all levels of the petitioner's academic career, she claims to have entertained the desire to pursue a career in Mathematics, and therefore, had taken up the subject of Mathematics at all levels. Having acquired the qualifications, noticed hereinabove, the petitioner claims to have acquired eligibility for appointment to the post of Mathematics teacher.

It is the contention of the learned counsel for the petitioner, that posts of school teachers in various disciplines, including the discipline of Mathematics, were advertised in the year 1982, and again in the year 1996. However, on both the aforestated occasions, the advertisements issued by the authorities were cancelled, whereafter, for the first time, an advertisement has now been issued in October 2006,

inviting applications for filling up 1314 vacancies of school teachers.

In view of the fact that the petitioner possesses the academic qualification prescribed for the post of Mathematics teacher, the petitioner responded to the aforesaid advertisement, issued in October 2006. However, the claim of the petitioner was not considered. The pleadings of the instant writ petition reveal, that the petitioner was treated as over age for the advertised posts, and as such, her candidature was rejected.

In view of the express pleadings, namely, that the candidature of the petitioner was rejected, on account of the fact, that she was over-age, it is necessary to delineate hereunder the prescription of age contained in the advertisement, issued by the respondents in October 2006. Relevant extract thereof is, accordingly, being reproduced hereunder:-

> "Age between 18 to 37 years as on 1.1.2006.
>
> (a) Relaxation in age by 5 years for SC/ST and other Backward Classes.
>
> (b) Relaxation in age up to 40 years for widows/legally separated/divorcee women.
>
> (c) To the extent of 10 years for physically handicapped persons on production of Medical Certificate from the competent authority.
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> (d) Ex-servicemen as per Punjab Recruitment of Ex-Servicemen Rules, 1982 as amended from time to time.
>
> (e) 45 years for persons already in the employment of Punjab government other State Government or the Government of

India."

A perusal of the aforesaid extract from the advertisement reveals, that a candidate who had not crossed 37 years of age as on 1.1.2006 was eligible to participate in the process of selection. In view of the date of birth of the petitioner referred to hereinabove (25.9.1960), it is apparent that the petitioner had crossed the aforesaid age limit, and therefore, has been excluded from consideration.

The first contention of the learned counsel for the petitioner is, that the posts of Mathematics teachers have been advertised for purposes of direct recruitment for the first time in 2006 after the year 1992, and as such, the age stipulation for direct recruitment should have been in a manner, that all those who were eligible for appointment to the post of Mathematics teacher in 1992, but were deprived from participating in any process of selection/appointment, on account of the non-advertisement of the posts, should be treated as eligible for appointment, in furtherance of the process of selection initiated in response to the advertisement issued in October 2006. So as to examine the practicability of the contention of the learned counsel for the petitioner, we would have to examine the logical extent of the argument advanced. Logically, the contention of the learned counsel for the petitioner is that a candidate who was 37 years of old when the advertisement was issued in 1992, should be treated as eligible since the advertisement published in 1992 was cancelled. It is apparent that a candidate, who was 37 years of age in the year 1992, would be 37 + 14 = 51 years of age, in 2006. It is, therefore, apparent that the submission of the learned counsel for the petitioner, seeking extension of age, on the

basis of the instant contention, would extend the maximum age for appointment to the post of Mathematics teacher, to 51 years, as on the last date of receipt of the application forms. It is not possible for us to accept the instant contention of the learned counsel for the petitioner. The stipulation of age is always made keeping in mind the qualifications prescribed for appointment against a post, as also, the administrative exigency of duties and responsibilities assigned to the said post. The wisdom of the employer in fixing the aforesaid minimum and maximum age for recruitment to the post of Mathematics teacher, as has been depicted in the advertisement, is not subject matter of challenge at the hands of the petitioner, on any other logic, except that the posts in question have been advertised for the first time in the year 2006 after 1994. In our view, this cannot be a valid justification for extension of the upper age limit prescribed for appointment to the post of Mathematics teachers.

No other contention was advanced on behalf of the learned counsel for the petitioner.

Dismissed

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

November 20, 2006.
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